

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

DOCKET & FILE

-----X  
DAVID HESTER-BEY,

Plaintiff,

-against-

NEW YORK CITY POST NEWSPAPER;  
NEW YORK CITY DAILY NEWSPAPER;  
FOX 5 NEWS CHANNEL 5; PIX 11 NEWS  
CHANNEL 11 NEWS; CHANNEL 7 ABC  
NEWS; CHANNEL 2 NEWS; CHANNEL 4  
NEWS,

Defendants.

-----X  
MATSUMOTO, United States District Judge:

**ORDER AND**  
**CIVIL JUDGMENT**

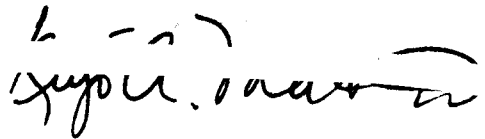
09-CV-3823 (KAM)

On August 27, 2009, plaintiff David Hester-Bey, filed this *pro se* action alleging that defendants falsely reported that he had raped a woman in Brooklyn. By Memorandum and Order dated October 21, 2009, the court granted plaintiff's request to proceed *in forma pauperis* and dismissed the complaint without prejudice to replead a basis for subject matter jurisdiction within 45 days. The court also notified plaintiff that if he failed to file an amended complaint within the time allowed or failed to show good cause why he could not comply, judgment dismissing the complaint would be entered. More than 45 days have elapsed and plaintiff has not filed an amended complaint or shown cause why he failed to comply. Accordingly, it is

**ORDERED, ADJUDGED AND DECREED:** That the action is dismissed for lack of subject matter jurisdiction pursuant to Fed. R. Civ. P. 12(h)(3), as set forth in the court's Memorandum and Order dated October 21, 2009. The court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal would not be taken in good faith and therefore *in forma pauperis* status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962). The Clerk of the Court is directed to close this case.

SO ORDERED.

Dated: Brooklyn, New York  
December 17, 2009

A handwritten signature in black ink, appearing to read "Kiyo A. Matsumoto", written over a horizontal line.

KIYO A. MATSUMOTO  
United States District Judge